

The House Committee on Judiciary offers the following substitute to HB 716:

A BILL TO BE ENTITLED

AN ACT

To amend Article 7 of Chapter 10 of Title 9 of the Official Code of Georgia Annotated, relating to continuances, so as to provide for a continuance or postponement where a party or attorney is presiding as a judge or recorder in another court; to change certain provisions relating to grounds for continuance for members of the General Assembly and certain legislative staff and others who are attorneys or parties in a case; to amend Code Section 17-8-26 of the Official Code of Georgia Annotated, relating to grounds for continuance for members of the General Assembly and the attendance of a party or attorney, so as to change certain provisions relating to a continuance for General Assembly members and certain legislative staff; to provide for the grant of a continuance and stay at certain times when the presence of a member of the General Assembly or certain legislative staff is required elsewhere because of legislative duties; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 7 of Chapter 10 of Title 9 of the Official Code of Georgia Annotated, relating to continuances, is amended by striking Code Section 9-10-150, relating to grounds for continuance for members of the General Assembly who are parties or attorneys in a case, and inserting in lieu thereof the following:

"9-10-150.

A member of the General Assembly who is a party to or the attorney for a party to a case, or any member of the staff of the Lieutenant Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Speaker Pro Tempore of the House of Representatives, or the chairperson of ~~the Judiciary Committee or Special Judiciary Committee of either~~ any committee in the Senate or the House of Representatives who is the lead counsel for a party to a case pending in any trial or appellate court or before

any administrative agency of this state; shall be granted a continuance and stay of the case. The continuance and stay shall apply to all aspects of the case, including, but not limited to, the filing and serving of an answer to a complaint, the making of any discovery or motion, or the making of any response to any subpoena, discovery, or motion, and appearance at any hearing, trial, or argument. Unless a shorter length of time is requested by the member, the continuance and stay shall last the length of any regular or extraordinary session of the General Assembly and during the first three weeks following any recess or adjournment including an adjournment sine die of any regular or extraordinary session. A continuance and stay shall also apply to any legislative committee member for any day on which his or her committee holds a meeting during the year. A continuance and stay shall apply at such other times as the presence elsewhere of any member of the General Assembly or any member of the staff of the Lieutenant Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, or the Speaker Pro Tempore of the House of Representatives is required by his or her duties with the General Assembly upon written notice to the court certifying the specific basis for the continuance and stay. Notwithstanding any other provision of law, rule of court, or administrative rule or regulation, and to the extent permitted by the Constitutions of the United States and the State of Georgia, the time for doing any act in the case which is delayed by the continuance provided by this Code section shall be automatically extended by the same length of time as the continuance or stay covered."

SECTION 2.

Said article is further amended by adding a new Code section immediately following Code Section 9-10-150, to be designated Code Section 9-10-150.1, to read as follows:

"9-10-150.1.

(a) It shall be the duty of the judge of any trial court of this state to continue, postpone, or recess, on or without motion, any case in the court when any party thereto or such party's attorney shall, when the case is reached, be absent from the court by reason of such party's presiding as a judge or recorder in another court or if lead counsel in such case shall be absent by reason of his or her service presiding as a judge or recorder in another court. Any such continuance shall last during the entire day or days in conflict with such other court, plus a reasonable time thereafter to allow the affected party or attorney to refresh and prepare, but not less than one day, unless the party, in the absence of the party's attorney, or the attorney, in the absence of the party, shall, on the call of the case, announce ready for trial; provided, however, that where there are several attorneys engaged by a party, a continuance shall be granted upon a showing by the party or the other counsel that the

absent counsel is necessary or desirable for the proper handling of the case. It shall be the duty of a party or attorney relying on this Code section to give notice of such conflict to the judge of the trial court in which such party or attorney is scheduled to appear and all opposing counsel 48 hours in advance of the call of the trial calendar or the call of the case for trial.

(b) The party or attorney relying on this Code section may only rely on this Code section to obtain three continuances, postponements, or recesses, unless such party or attorney avers that he or she has made efforts to find a qualified substitute for his or her judicial duties and such efforts have not been successful, which averment without more shall be sufficient for granting the continuance."

SECTION 3.

Code Section 17-8-26 of the Official Code of Georgia Annotated, relating to grounds for continuance for members of the General Assembly and the attendance of a party or attorney, is amended by striking said Code section and inserting in lieu thereof the following:

"17-8-26.

A member of the General Assembly who is a party to or the attorney for a party to a case ~~which is,~~ or any member of the staff of the Lieutenant Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Speaker Pro Tempore of the House of Representatives, or the chairperson of any committee in the Senate or the House of Representatives who is the lead counsel for a party to a case pending in any trial or appellate court or before any administrative agency of this state shall be granted a continuance and stay of the case. The continuance and stay shall apply to all aspects of the case, including, but not limited to, the filing and serving of an answer to a complaint, the making of any discovery or motion, or the making of any response to any subpoena, discovery, or motion, and appearance at any hearing, pretrial appearance, arraignment, plea or motion calendar, trial, or argument. When a case, motion, hearing, or argument is called and is subject to a continuance or stay under this Code section due to the party's attorney's membership in the General Assembly, the party shall not be required to be present at the call of the case, motion, hearing, or argument. Unless a shorter length of time is requested by the member, the continuance and stay shall last the length of any regular or extraordinary session of the General Assembly and during the first three weeks following any recess or adjournment, including an adjournment sine die of any regular or extraordinary session. A continuance and stay shall also apply to any legislative committee member for any day on which his or her committee holds a meeting during the year. A continuance and stay shall apply at such other times as the presence elsewhere of any

1 member of the General Assembly or any member of the staff of the Lieutenant Governor,
2 the Speaker of the House of Representatives, the President Pro Tempore of the Senate, or
3 the Speaker Pro Tempore of the House of Representatives is required by his or her duties
4 with the General Assembly upon written notice to the court certifying the specific basis for
5 the continuance and stay. Notwithstanding any other provision of law, rule of court, or
6 administrative rule or regulation, and to the extent permitted by the Constitutions of the
7 United States and of the State of Georgia, the time for doing any act in the case which is
8 delayed by the continuance or stay provided by this Code section shall be automatically
9 extended by the same length of time as the continuance or stay covered."

10 **SECTION 4.**

11 This Act shall become effective upon its approval by the Governor or upon its becoming law
12 without such approval.

13 **SECTION 5.**

14 All laws and parts of laws in conflict with this Act are repealed.